



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brent M. Ahalt, Esq.
McNamee Hosea, P.A.
6411 Ivy Lane, Suite 200
Greenbelt, MD 20770

AUG 25 2016

RE: MUR 6878

Dear Mr. Ahalt:

The Federal Election Commission reviewed the allegations in the complaint submitted by your client, OnMessage, Inc., to the Commission on October 9, 2014. Based upon the information provided in the complaint, and information provided by the respondents, the Commission found no reason to believe that the Committee violated the Act. Accordingly, the Commission closed its file in this matter on August 17, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). A copy of the Commission's Factual and Legal Analysis is enclosed for your information.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Daniel A. Petalas
Acting General Counsel

BY: Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Dewhurst for Texas MUR 6878
and Dr. Carlos R. Hamilton, Jr.,
as treasurer

I. INTRODUCTION

This matter was generated by a Complaint filed by Brad Todd on behalf of OnMessage, Inc., ("Complainant") on October 6, 2014, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by Dewhurst for Texas and Dr. Carlos R. Hamilton, Jr., in his official capacity as treasurer (collectively the "Committee"). It was scored as a relatively low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

According to the Complainant, the Committee violated the Act by failing to report debt in disclosure reports filed with the Commission.¹ Specifically, Brad Todd on behalf of the Complainant, OnMessage, Inc. alleges that the Committee failed to disclose \$116,548.90 owed to them for services provided during Dewhurst's bid for Senate in 2012 in its 2014 July Quarterly report.² In its response, the Committee acknowledges the debt and asserts that it did disclose it in its 2014 July Quarterly report, but maintains that because of an administrative error, only one side of its two-sided report was published to the FEC's online database and, therefore,

¹ Compl. at 3 (October 6, 2014).

² *Id.* The Committee disclosed this debt in its earlier 2014 April Quarterly report, filed with the Commission on April 10, 2014.

1 the debt in question was not displayed in its report.³ The Committee, when it learned that a
2 portion of its report was not publicly disclosed, contacted the Commission's Reports Analysis
3 Division ("RAD") to correct the report on the Commission's website.⁴ The Committee filed an
4 amended 2014 July Quarterly report that included the outstanding debt owed to OnMessage, Inc.,
5 as well as other missing information, on October 31, 2014.⁵

6 Committee treasurers are required to file reports of receipts and disbursements in
7 accordance with the provisions of the Act.⁶ The reports must include the amount and nature of
8 outstanding debts and obligations owed by or to the political committee.⁷ The Commission's
9 regulations specify, in pertinent part, that a debt or obligation exceeding \$500 must be disclosed
10 in the report that covers the date on which the debt or obligation is incurred.⁸

11 The Committee complied with the requirements of the Act and the Commission's
12 regulations when it disclosed its obligation to OnMessage, Inc., in its 2014 July Quarterly report.
13 According to RAD, the Office of the Secretary of the Senate appears to have inadvertently failed
14 to scan the odd pages of the Committee's original 2014 July Quarterly report for publication to
15 the Commission's website during the initial processing of the report. Through no fault of the
16 Committee, because of this administrative error the page of the report disclosing this debt, as
17 well as other information, was not included on the Commission's database. When the
18 Committee learned of the error, it immediately contacted RAD to determine the best way to

³ Resp. at 1 (October 29, 2014).

⁴ *Id.*

⁵ 2014 July Quarterly report, amended (October 31, 2014).

⁶ 52 U.S.C. § 30104(a)(1), 11 C.F.R. § 104.1(a).

⁷ 52 U.S.C. § 30104(b)(8); 11 C.F.R. § 104.3(d).

⁸ See 11 C.F.R. § 104.11(b).

- 1 resolve this issue and amended its report so that the missing information was included on the
- 2 Commission's website.

- 3 Accordingly, the Commission found no reason to believe that Dewhurst for Texas and
- 4 Dr. Carlos L. Hamilton, Jr., in his official capacity as treasurer violated 52 U.S.C. § 30104(b)(8)
- 5 and 11 C.F.R. § 104.3(d).